

RESOLUTION R-78-09

**A RESOLUTION AUTHORIZING AN AMENDMENT TO A LICENSE AGREEMENT
WITH BENSIDOUN USA, INC., DATED DECEMBER 18, 2006**

WHEREAS, the Bensidoun USA, Inc., operates an open-air market in Downtown Wheaton pursuant to a License Agreement approved by Resolution R-91-06; and

WHEREAS, paragraph 4 c of the License Agreement provides for storage at the licensee's expense in an up to 20 x20 foot fenced enclosure upon the right-of-way of Reber Street as is depicted in Exhibit B of the Agreement; and

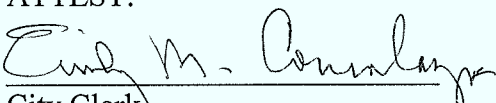
WHEREAS, due to the construction of the Willow Avenue parking garage, space has become available to transfer the storage area from Reber Street to an area under a ramp in the Willow Avenue parking garage; and

WHEREAS, the licensor and licensee mutually agree to the relocation of the Licensee's storage area from Reber Street to the Willow Avenue parking garage is in both parties best interests.

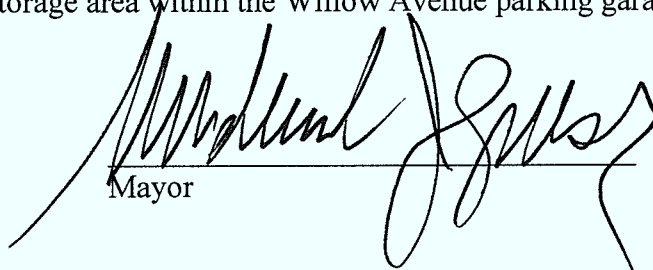
NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Wheaton, Illinois, that the Mayor is hereby authorized to execute an Agreement on behalf of the citizens of Wheaton, and the City Clerk to attest an agreement in the form attached hereto, to allow Bensidoun USA, Inc., to construct a storage area within the Willow Avenue parking garage.

ADOPTED this 7th day of December, 2009.

ATTEST:



City Clerk



Mayor

Roll Call Vote

Ayes: Councilman Mouhelis
Mayor Gresk
Councilman Prendiville
Councilman Scalzo
Councilman Sues
Councilwoman Corry
Councilman Levine

Nays: None

Absent: None

Motion Carried Unanimously

**AMENDMENT TO MARKET LICENSE AGREEMENT BETWEEN THE CITY OF
WHEATON AND BENSIDOUN USA, INCORPORATED**

WHEREAS, City of Wheaton, Illinois Municipal Corporation, hereinafter (licensor) and Bensidoun USA, Inc. Corporation (the licensee) entered into a certain Market License Agreement dated December 18, 2006 (hereinafter "Agreement"); and

WHEREAS, paragraph 4 c of the Agreement provides for storage at the licensee's expense in an up to 20 x20 foot fenced enclosure upon the right-of-way of Reber Street as is depicted in Exhibit B of the Agreement; and

WHEREAS, due to the construction of the Willow Avenue parking garage, space has become available to transfer the storage area from Reber Street to an area under a ramp in the Willow Avenue parking garage; and

WHEREAS, the licensor and licensee mutually agree to the relocation of the Licensee's storage area from Reber Street to the Willow Avenue parking garage is in both parties best interests.


NOW THEREFORE, based upon the considerations referenced herein and the Agreement, such considerations being agreed as adequate by and between the licensor and licensee, the Agreement is hereby amended by striking paragraph 4 c in its entirety and replacing it with a new paragraph 4 c which shall read as follows:

4. (c) **Storage.**

Licensee is hereby granted authority to construct and maintain, pursuant to the architectural renderings entitled "French Market Storage Area Chain-link" Prepared by Krupp Associates Architects, P.C., Wheaton dated 10/26/09, attached hereto and incorporated herein as Exhibit 1, a storage area under the depicted ramp of the Willow Avenue parking garage. The storage area shall be used in a similar manner as the current Reber Street storage area is used. The licensee shall be permitted to continue to the use of the Reber Street storage area in conformance with Paragraph 4 c of the License Agreement until such time as the new storage area depicted in Exhibit 1 is completed and ready for occupancy. At such time the Licensee at its sole expense shall remove any storage facilities and stored items from the Reber Street storage area. The Willow Avenue Parking garage storage area shall be considered a part of the "licensed premises" and subject to all the terms and conditions of the Agreement.

1. In all other respects that Agreement between the City of Wheaton and Bensidoun USA, Inc. dated December 18, 2006 is hereby readopted and reaffirmed.

CITY OF WHEATON

By: 

Its: Mayor

BENSIDOUN USA, INC.

By: 

Its: President / BENSIDOUN USA INC